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October 24, 2003

**Via Fax and First Class Mail**

April Sands  
Office of General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

Re: MUR 5357 (Sandra Moss)

Dear Ms. Sands:

This letter responds on behalf of Sandra Moss to the Federal Election Commission's letter, dated September 24, 2003, and the attached Factual and Legal Analysis, which notified Sandra Moss that the FEC had found reason to believe ("RTB") that she had violated 2 U.S.C. § 441f. The FEC made this finding against Mrs. Moss without ever affording her the opportunity to disabuse the FEC of any misunderstandings. As described below and as the attached sworn statement of Sandra Moss makes clear, the FEC has reached this conclusion in error and should accordingly revoke its reason to believe finding and close the matter against Mrs. Moss. Likewise, because there appears to be no legal or factual basis upon which the FEC may proceed against Mrs. Moss, she respectfully declines the FEC's offer to enter into pre-probable cause conciliation.

**Reason to Believe Finding**

The complaint was drafted and submitted by Arnold & Porter attorneys hired by Centex Corporation "to investigate potential violations of federal election laws that may have occurred at" the wholly owned subsidiary (Centex Rooney Construction Company, Inc.) of one of Centex's wholly owned subsidiaries (Centex Construction Group). The complaint did not allege wrongdoing by Mrs. Moss. Mrs. Moss also was not one of the approximately dozen people named as a respondent by the FEC who received a copy of the complaint back in March and April 2003. Moreover, we understand from our discussions with these Arnold & Porter attorneys that it never "dawned" on them that the FEC would investigate any Centex employee's spouse because they found no evidence of any wrongdoing by any of the spouses. Nevertheless, the troubling result is that—in contrast to the employees who submitted their contribution checks and participated in the Centex Rooney bonus plan—Mrs. Moss was never given notice and therefore never permitted to present the facts before the FEC made its RTB conclusion.

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FACTUAL BACKGROUND

The pertinent facts are explained in detail in the attached statement of Sandra Moss ("Statement"). I will refer to them here in order to highlight a few points necessary to respond to the FEC's RTB finding. Mrs. Moss has been happily married to Bob Moss for 33 years and has been a homemaker for 32 of those years. Statement at ¶ 2. During this time she has raised two sons, Robert and Scott Moss, and has been actively engaged in various charitable activities ranging from the Humane Society to the arts to her church. Recently, she has focused on charities benefiting underprivileged and traumatized children. She sits on the Board of the Sheraton House, which assists single mothers, and has volunteered and/or contributed to children charities including the Grandfather Home for Children, Jack & Jill, Give the Kids a World, Boggy Creek, and Cross Noir.

Mrs. Moss's concern for her community extends to following governmental actions and political affairs. As with charities, when she feels strongly about something she acts, including to make political contributions. She does not contribute very often and has "never made a contribution to a candidate who [she] did not support." *Id.* at ¶ 7. When she does contribute, "it is because [she] believe[s] it is worth putting [her] money where [her] heart is, not because [she] believe[s] that [she] will in any financial way be rewarded for [her] contribution." *Id.* at ¶ 8.

Mrs. Moss has never been an employee of a Centex company. She also has never received a bonus or compensation from any Centex company. Nevertheless, in order to support her husband Bob Moss in his job responsibilities, she assisted him in "ensuring that [Centex's] clients and employees knew [they] cared about them and that a good working environment prevailed." *Id.* at ¶ 4. Accordingly, she sometimes "entertained or purchased gifts on the company's behalf [and sought] direct reimbursement from the company." *Id.* at ¶ 5. Thus, she knew how to seek reimbursement from the company and when she was reimbursed she always received "a check made out to 'Sandra Moss' for the amount submitted." *Id.* at ¶¶ 5 and 7.

Mrs. Moss "had no idea that Bob was submitting any political contribution checks to Gary Esporin and certainly no idea whether Bob ever did anything with [her] checks." *Id.* at ¶ 10. In fact, until she received the FEC's letter, she "had no idea that the company knew about any of [her] personal political contributions." She has categorically stated however that she has "never submitted a request for reimbursement for any political contribution and [] never been reimbursed for any contribution." *Id.* at ¶ 6. She also has "never sought reimbursement or any other type of remuneration for making a political contribution" and "never received a single penny in return for [her] political contributions." *Id.* at ¶¶ 7 and 10.

LEGAL ANALYSIS

The Factual and Legal Analysis appears to acknowledge that Mrs. Moss did not have any knowledge or involvement in the bonus system nor was she aware of any other of the questionable events and practices described in the Analysis. Rather, Mrs. Moss is not even mentioned until the final two sentences of the Analysis and then only because a few of her

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federal political contribution checks were allegedly submitted by her husband to Gary Esporin. The FEC typically does not pursue spouses who did not personally violate any federal election laws and who were wholly unaware of their partner's alleged improper activities. Recently, in MUR 4931, for example, the Office of General Counsel recommended, that the FEC "take no further action and close the file as to [Maxim's wife, Cathy], as the evidence indicates she was not aware her contributions were reimbursed." General Counsel's Report #7 at 12, August 27, 2002. The FEC should again follow that advice and precedent here as Mrs. Moss "was not aware her contributions were reimbursed" or in any way considered by Centex Rooney.<sup>1</sup>


2 U.S.C. § 441f provides that "[n]o person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution and no person shall knowingly accept a contribution made by one person in the name of another." The facts above make clear that Sandra Moss did not (1) make a contribution in the name of another person; (2) knowingly permit her name to be used to effect such a contribution; or (3) accept a contribution made by one person in the name of another. Mrs. Moss therefore did not violate § 441f and the RTB finding was made in error.

#### CONCLUSION

For the reasons described above, the Commission should revoke the reason to believe finding and close the matter against Mrs. Moss because she was not reimbursed or compensated in any way for her personal, voluntary contributions and was unaware of any bonus system that considered political contributions.

If you have any questions, or we can be of any assistance, please do not hesitate to call us at the above number.

Sincerely,

  
Kirk L. Jowers  
Counsel to Sandra Moss

cc: Bruce Lyons

Enclosure

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<sup>1</sup> MUR 4931 is quite different from the instant case as it involved direct reimbursements rather than a year-end bonus program that took certain individuals' political contributions into account. Nevertheless, it is instructive here because although James Maxim, a Quintex Vice President, "reimbursed himself and his wife, Cathy, for eight campaign contributions" and paid a civil fine to settle the matter, Cathy was found not to be culpable for her husband's actions. General Counsel's Report #7 at 11, August 27, 2002.

## Statement of Sandra Moss

1. My name is Sandra Moss.
2. I have been married to Bob Moss for 33 years. I have been a homemaker for more than 32 of those years. Together we have had a wonderful life together. We have two sons, Robert Chadwick Moss and Scott Raymond Moss.
3. Bob started with Frank J. Rooney Construction—now known as Centex Rooney Construction Co., Inc. (“Centex Rooney”) in 1986. He continued working with Centex companies for nearly 17 years, culminating with his position as head of Centex Construction Group (“CCG”) in January of 2000 until February of 2003.
4. I tried my best to support Bob in all of his endeavors. Over the years I spent countless hours entertaining and assisting company clients and executives. Specifically, I—with Bob’s permission and the company’s blessing—also planned and executed dinners, parties, and trips for Centex Rooney, CCG, and Centex Corp. executives and/or wives. I also occasionally bought modest gifts for clients or company personnel. These efforts were an important part of our duties to the company. We were committed to ensuring that our clients and employees knew we cared about them and that a good working environment prevailed.
5. Whenever I entertained or purchased gifts on the company’s behalf, I would seek direct reimbursement from the company. To get reimbursed, I would make a list, either typewritten or handwritten, of the expenses and attach the receipts to the list. I then would give the list and attached receipts to Bob to take to work, or simply drop off the request myself when I visited Bob’s office. Ultimately, I would receive a check made out to “Sandra Moss” for the amount submitted.
6. I have never submitted a request for reimbursement for any political contribution and have never been reimbursed for any contribution.
7. I have never made a contribution to a candidate who I did not support. As explained above, I know how to request reimbursement from the company and I can categorically state that I have never sought reimbursement or any other type of remuneration for making a political contribution.
8. I do not contribute very often, but when I do it is because I believe it is worth putting my money where my heart is, not because I believe that I will in any financial way be rewarded for my contribution. For example, on several occasions I contributed to Clay Shaw’s candidacies because he represents our home district very well and Bob and I

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know him and his wife Emily personally.

9. I understand from the past several months of being with Bob and from the letter I received from the Federal Election Commission that there are questions regarding political contributions having been taken into account in Centex Rooney's bonus system. Specifically, the Commission states (p. 6) that I "made \$3,000 in federal political contributions during the time period for which Mr. Moss submitted checks to Mr. Esporin."

10. I had no idea that Bob was submitting any political contribution checks to Gary Esporin and certainly no idea whether Bob ever did anything with my checks. In fact, prior to January of 2003, I was not aware of any Centex Rooney bonus system that took political contributions into account. Until a few weeks ago, I had no idea that the company knew about any of my personal political contributions. Moreover, I did not know and am still unclear whether any of my political contributions were ever considered by Centex Rooney in any way. I do know, however, that I never asked for nor expected my political contributions to be considered in any way by anybody and that I personally never received a single penny in return for my political contributions.

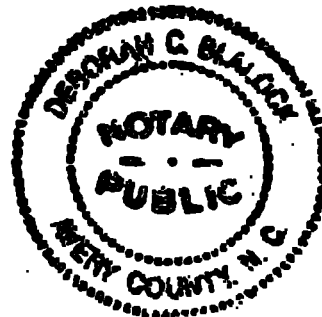
*Sandra A. Moss*  
Signed

*Oct 22, 2003*  
Dated

Sworn and subscribed  
to before me this 22  
day of October, 2003.

*Deborah C. Blalock*  
Notary Public

My Commission expires: 01/28/2006



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